

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

M&C Holdings Delaware Partnership, <i>et</i>	:	
<i>al.</i> ,	:	
	:	Case No. 1:20-cv-121
Plaintiffs,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order on Motion to Strike
Great American Insurance Company,	:	
	:	
Defendant.	:	

This matter is before the Court on Magistrate Judge Karen L. Litkovitz's Report and Recommendation (Doc. 44) recommending that Plaintiffs' Motion to Strike (Doc. 32) Defendant's affirmative defenses be granted in part and denied in part. Specifically, she recommended: (1) Defense 4 be stricken to the extent it purports to bar Plaintiffs' claim in Count II; (2) Defense 9 be stricken to the extent that it purports to bar Plaintiffs' claims through the doctrine of laches; and (3) Plaintiffs' Motion to Strike be denied as to the remaining defenses. (Doc. 44 at PageID 524.) Neither party filed an Objection to the Report and Recommendation.

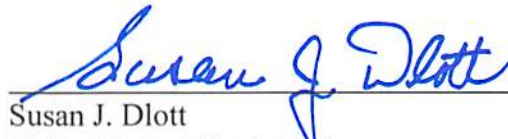
Magistrate judges are authorized to decide dispositive and non-dispositive matters pursuant to 28 U.S.C. § 636 and Rule 72 of the Federal Rules of Civil Procedure. The district judge must conduct a de novo review of a magistrate judge's recommendation on a dispositive motion. *Baker v. Peterson*, 67 F. App'x 308, 310 (6th Cir. 2003) (citing § 636(b)(1)(B)). The Court has read the parties' initial briefs and the Report and Recommendation. Motions to strike affirmative defenses are disfavored. *See Operating Eng'rs Local 324 Health Care Plan v. G&W Constr. Co.*, 783 F.3d 1045, 1050 (6th Cir. 2015); 5C Wright & Miller, Fed. Prac. & Proc. Civ.

§ 1381. “[E]ven when technically appropriate and well-founded, Rule 12(f) motions often are not granted in the absence of a showing of prejudice to the moving party.” 5C Wright & Miller, Fed. Prac. & Proc. Civ. § 1381. They are granted when the defense has no possible relation to the controversy. *Brown & Williamson Tobacco Corp. v. United States*, 201 F.2d 819, 822 (1953). Applying these standards, the Court will adopt the Magistrate Judge’s recommendations.

For the foregoing reasons, the Report and Recommendation (Doc. 44) is **ADOPTED** and the Motion to Strike (Doc. 32) is **GRANTED IN PART AND DENIED IN PART**.

IT IS SO ORDERED.

BY THE COURT:



Susan J. Dlott
United States District Judge